



## MORGANTOWN PLANNING COMMISSION

June 12, 2014

6:30 PM

City Council Chambers

### **President:**

Peter DeMasters, 6<sup>th</sup> Ward

### **Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

### **Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Bill Kawecky, City Council

## **STAFF REPORT**

**CASE NO:** TX14-01 / Administrative / Sign Permits

### **REQUEST:**

Administratively requested Zoning Text Amendment to Article 1369.15 of the Planning and Zoning Code as it relates to sign permits.

### **BACKGROUND and ANALYSIS:**

Article 1369.15 "Sign Permits", Paragraph (C)(1) of the Planning and Zoning Code provides:

"For all signs in the B-4 districts requiring a permit and that are larger than 6 square feet, approval from the Planning Commission shall be necessary."

This procedural step in the sign permit approval process was included in the 2006 major modernization amendment of the City's Zoning Ordinance. Prior to 2006, the practice and procedure for those seeking approval to erect a sign within the B-4 District was, and remains, to consult with the Planning Commission's standing Downtown Design Review Committee prior to final administrative approval.

This committee is comprised of individuals who have professional design expertise and downtown development acumen. With the exception of the two Planning Commission representatives on the committee, all members have served on the committee since before the 2006 major zoning ordinance amendment.

Additionally, if a proposed sign does not meet minimum design and performance standards (e.g., size, lighting, material, etc.) enumerated in Article 1369 "Signs", then the Board of Zoning Appeals considers the proposed sign under a standard variance petition.

Paramount in land use and land development policy administration and enforcement is ensuring fairness and equality and eliminating arbitrary and capricious decision making processes to the greatest extent. If a community wishes to regulate development, then the ordinance enacted to authorize enforcement of design and performance standards (i.e., signs, architectural design, etc.) must be specific and equally known and fair to all. The regulations and approval process must be standardized and not left to a quasi-judicial decision making process that lacks clear legislative intent and authority, which could expose the City to unnecessary legal challenges.

Specifically, if a proposed sign within the B-4 District meets all design and performance standards enumerated in the Planning and Zoning Code (e.g., size, lighting, material, etc.), there would be no defensible cause or reason to support a denial decision by the Planning Commission or the Downtown Design Review Committee without the determination being arbitrary, capricious, and/or violating First Amendment protections relating to the regulation of signage.

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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The Planning Division has researched and found no instance where the approval of a sign within the B-4 District has been included on a Planning Commission docket.

The City Manager has directed the Planning Division to submit policy alternatives to the Planning Commission that will address the incongruity between the B-4 District sign permit approval process that has been practiced for the past 15 plus years and the approval process provided under Article 1369.15(C)(1) of the Planning and Zoning Code be corrected.

Policy Alternative 1 – Begin following Article 1369.15(C)(1) as currently stated. However, additional policy consideration must be explored concerning the intent, justification, and public benefit of requiring individuals to seek Planning Commission approval of a proposed sign; particularly if the proposed sign is considered a by-right pursuit when it meets all design and performance standards enumerated in the Planning and Zoning Code.

Policy Alternative 2 – Enact a text amendment to Article 1369.15(C)(1) to replace “Planning Commission” with “Downtown Design Review Committee” and the term “approval” with the term “consultation.” This amendment would sanction the B-4 District sign permit approval practice and procedure that has been in place for many years (see strikethrough/underline version below).

“For all signs in the B-4 districts requiring a permit and that are larger than 6 square feet, ~~approval from consultation with the Planning Commission~~ Downtown Design Review Committee shall be necessary.”

Policy Alternative 3 – Enact a text amendment to eliminate Article 1369.15(C)(1) from the Planning and Zoning Code altogether (see strikethrough version below).

~~“For all signs in the B-4 districts requiring a permit and that are larger than 6 square feet, approval from the Planning Commission shall be necessary.”~~

### **STAFF RECOMMENDATION:**

The Planning Division advocates Policy Alternative 2 as it would:

1. Sanction the practice and procedure for sign permit approvals within the B-4 District that has been in place for the past 15 plus years.
2. Maintain the Downtown Design Review Committee’s consultation function as the Planning Commission’s standing committee comprised of professional design expertise and downtown development acumen.
3. Preserve the Downtown Design Review Committee’s role for future B-4 District design standards and review procedures recommended in the 2013 Comprehensive Plan Update and the 2010 Downtown Strategic Plan Update.

As such, Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend Article 1369.15(C)(1) of the Planning and Zoning Code as presented under Policy Alternative 2 above.

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